

DECLARATION PURSUANT TO 37 C.F.R. § 5.25(3)

5

I, Dr. Christophorus L. E. Broekkamp, patent attorney working for Organon and Akzo Nobel with office location in Oss, The Netherlands affirms the following:

10 I was responsible for writing and filing the patent application entitled

PHARMACEUTICAL FORMULATION OF GEPIRONE FOR ORAL ADMINISTRATION

15 The first filing was done in Europe, European application number 00204388.3, on December 8, 2000. This European application has since been withdrawn. The US filing was submitted on November 21, 2001, Serial number 10/054,458.

20 The inventors are Johan G. J. Egberink and John F. Engelhart.

Egberink has Dutch nationality and is employee of N.V. Organon, the Netherlands, having his location of work in Oss, The Netherlands.

Engelhart has US nationality and is employee of Organon Inc having his
25 location of work in West Orange in the State of New Jersey.

Both N.V. Organon and Organon Inc. are subsidiaries of Akzo Nobel N.V., Arnhem, The Netherlands, to which company the right to the patent is assigned.

30

The invention came about by communication between these two persons, while communicating by E-mail and in meetings. These meetings took place in Europe and the US. The formulations according to the invention were prepared in the US and tested in Europe.

35

Only much later after the first filing in Europe, I realized that a US inventor was involved and that the invention was not made exclusively



outside US territory. Only then did I realize that the application should have been filed in the United States. The first filing came about as follows:

In case of an invention only involving Organon employees, it is habitual
5 practice in our department in the Netherlands, to prepare an application
for patent, file the application and investigate in detail later which persons
should be named as co-inventors. This procedure follows from the need
not to lose time after an invention is made, because, with the exception of
the US, the filing date determines our right to priority of the invention. In
10 order to determine the inventors, we follow a standard procedure as
follows. The research director is requested to identify persons in his
organization as candidate inventors. After this the patent attorney
contacts these individuals and, after hearing their statements on their
contribution, makes a definitive decision on the identity of the inventors.
15 Following this procedure, I realized later that a US inventor was involved
and that the invention was not made exclusively outside US territory.
Consequently, I realized that the first filing should have been made in the
US. The filing in the US was made without delay and was sent to the
USPTO on November 21, 2001. A filing under PCT was done on November
20 30, 2001, wherein the priority date of the European filing was claimed.

It is submitted that filing the application first in the European Patent
Office was done through error and without deceptive intent.

25 I hereby declare that all statements made herein of my own knowledge are
true and that all statements made on information and belief are believed
to be true; and further that these statements were made with the
knowledge that wilful false statements and the like so made are
punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and,
30 that wilful false statements may jeopardize the validity of the application
issued thereon.

Number of pages of this declaration: 2 pages

35

2002-May 7

Date

Oss, NL

Place



C. L. E. Broekkamp